



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VIII

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501035

MT

Sept '92

92-09-00-02

Ref: 8WM-WQ

Mr. Dan Fraser, Chief
Water Quality Bureau
Department of Health and Environmental Services
Cogswell Building
Helena, Montana 59620

Re: Update on Listing Requirements Under
§303(d) and §304(l) of the CWA

Dear Dan:

We wish to update you on the recent actions related to both the Section 303(d) Total Maximum Daily Load (TMDL) and Section 304(l) Toxic Control programs. In recent rulemaking, the EPA Administrator signed final amendments to both the 303(d) and 304(l) regulations (see attached copy of the rule) in anticipation that this final rule would be signed, we have been working with each Region VIII State over the last eight months on these issues. The following provides a discussion of how these amendments affect the Region VIII States.

Amendments to the Section 303(d) TMDL Regulation

The primary aim of these amendments is to place States on a schedule for submitting their 303(d) TMDL lists. Section 303(d) requires that the state list of TMDL waters be submitted to EPA "from time to time" for review and approval. In the new regulation, "from time to time" is defined for purposes of TMDL waterbodies to mean every two years coincident with submission of the Section 305(b) report. EPA folded the requirement to identify TMDL waterbodies in with the requirements of Section 305(b) (Water Quality Assessment Report) and Section 314(a) (Clean Lakes reporting) to streamline the whole assessment and listing effort. The list of TMDL waters will be due by April of every even year beginning in 1994. For 1992, the rule calls for submittal no later than October 22.

Most of the Region VIII States have submitted final or draft lists for review. We wish to thank your staff for the hard work they have put into the development of the lists. Our office will be concluding its review of the submitted lists and will be sending review letters to the appropriate States soon. For those States that have yet to submit their §303(d) TMDL waterbody lists, they have been given until October 22 to transmit their lists. Further details of the substance of the submittal are included in the preamble to the attached rule.

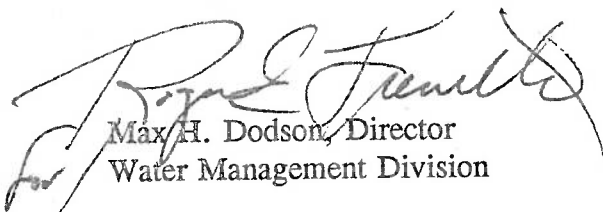
Amendments to the Section 304(l) Waterbody Lists

Earlier this year, we notified you that a recent decision in the U.S. Court of Appeals for the Ninth Circuit (see NRDC v. EPA, 915 F.2d 1314) required EPA to expand its definition of what point source facilities are to be included on the Section 304(l)(1)(C) list of toxic dischargers. The rule recently signed by the Administrator (see enclosed regulation) describes how a State must re-evaluate their 304(l) discharger list for possible additions.

All of the Region VIII States have already performed a re-evaluation of their 304(l) discharger lists in accordance with the provisions given in the new regulation. In addition, we have heard either formally or informally from each of the Region VIII States that no new additions are planned for any of the 304(l) discharger lists. We will be providing each State with a letter of review on this decision in the near future.

Please call me or Bruce Zander of my staff (303/290-1580) if you have any questions concerning this issue.

Sincerely,



Max H. Dodson, Director
Water Management Division

Enclosure

Table: Status of State submittals per Section 303(d) for Identification of Waters in need of Total Maximum Daily Loads

State	Status of §303(d) TMDL Waterbody List Submittal
Colorado	List in draft 305(b) Report received/under review.
Montana	List received/approval being prepared.
North Dakota	No list received.
South Dakota	List received/under review.
Utah	No list received.
Wyoming	List received/approval being prepared.